

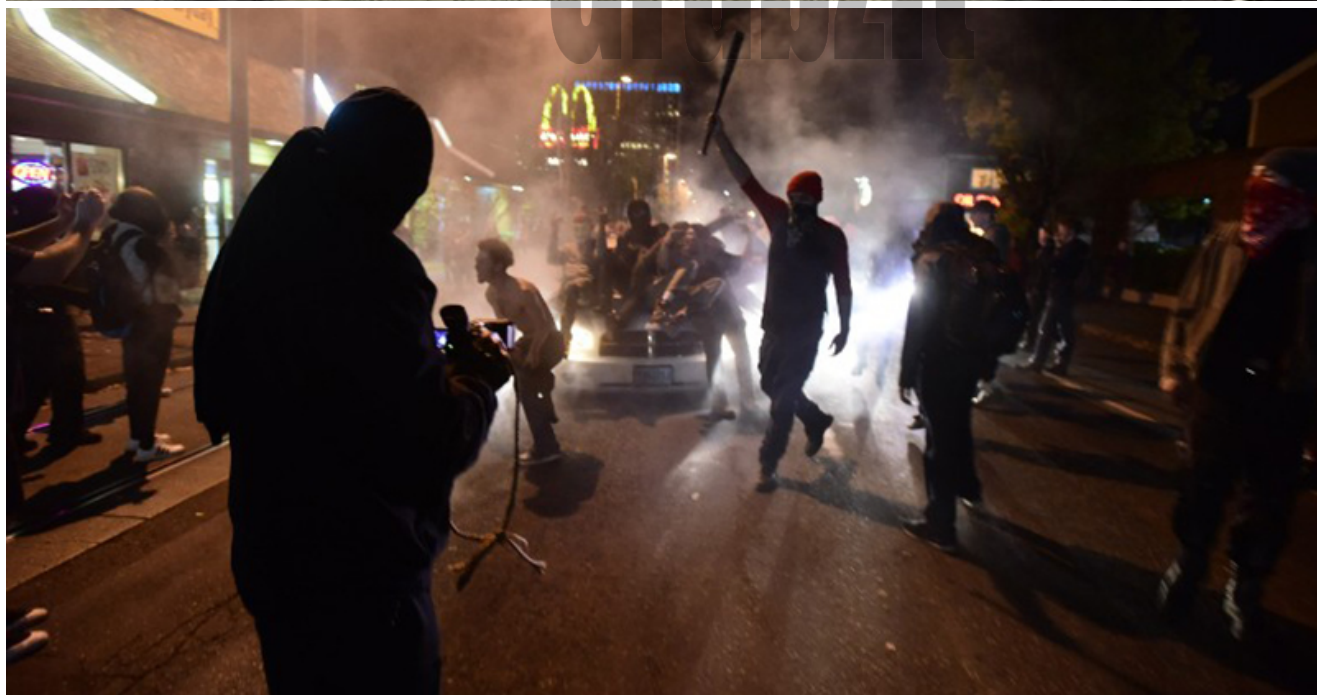
- [Legal Glossary](#)
- [2015 ORS](#)
-
-

[Home](#) > [2015 ORS](#) > [Vol. 4](#) > [Chapter 164](#) > Theft And Related Offenses

[Support the Portland Police](#)

Grabzt





- [164.015](#) 🚩
[Theft described](#)
- [164.025](#) 🚩
[Consolidation of theft offenses](#)
- [164.035](#) 🚩
[Defenses to theft](#)
- [164.043](#)
[Theft in the third degree](#)
- [164.045](#)
[Theft in the second degree](#)
- 164.055
Theft in the first degree
- [164.057](#)
[Aggravated theft in the first degree](#)

- [164.061](#)
[Sentence for aggravated theft in the first degree when victim 65 years of age or older](#)
- [164.063](#)
[Disproportionate impact](#)
- [164.065](#)
[Theft of lost, mislaid property](#)
- [164.075](#) 🚨
[Theft by extortion](#)
- [164.085](#)
[Theft by deception](#)
- [164.095](#)
[Theft by receiving](#)
- [164.098](#)
[Organized retail theft](#)
- [164.105](#)
[Right of possession](#)
- [164.115](#)
[Value of property](#)
- [164.125](#)
[Theft of services](#)
- [164.130](#)
[Application of ORS 164.125 to telephone or telegraph services](#)
- [164.132](#)
[Unlawful distribution of cable television equipment](#)
- [164.135](#)
[Unauthorized use of a vehicle](#)
- [164.138](#)
[Criminal possession of a rented or leased motor vehicle](#)
- [164.140](#)
[Criminal possession of rented or leased personal property](#)
-

2015 ORS § 164.055¹

Theft in the first degree

(1) A person commits the crime of theft in the first degree if, by means other than extortion, the person commits theft as defined in ORS [164.015 \(Theft described\)](#) and:

- (a) The total value of the property in a single or aggregate transaction is \$1,000 or more;
 - (b) The theft is committed during a riot, fire, explosion, catastrophe or other emergency in an area affected by the riot, fire, explosion, catastrophe or other emergency;
 - (c) The theft is theft by receiving committed by buying, selling, borrowing or lending on the security of the property;
 - (d) The subject of the theft is a firearm or explosive;
 - (e) The subject of the theft is a livestock animal, a companion animal or a wild animal removed from habitat or born of a wild animal removed from habitat, pursuant to ORS [497.308 \(Wildlife holding and habitat removal permits\)](#) (2)(c); or
 - (f) The subject of the theft is a precursor substance.
- (2) As used in this section:
- (a) Companion animal means a dog or cat possessed by a person, business or other entity for purposes of companionship, security, hunting, herding or providing assistance in relation to a physical disability.
 - (b) Explosive means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined in ORS [480.111 \(Definitions for ORS 480.111 to 480.165\)](#), black powder, smokeless powder, small arms ammunition and small arms ammunition primers.
 - (c) Firearm has the meaning given that term in ORS [166.210 \(Definitions\)](#).
 - (d) Livestock animal means a ratite, psittacine, horse, gelding, mare, filly, stallion, colt, mule, ass, jenny, bull, steer, cow, calf, goat, sheep, lamb, llama, pig or hog.
 - (e) Precursor substance has the meaning given that term in ORS [475.940 \(Precursor substances described\)](#).

(3) Theft in the first degree is a Class C felony. [1971 c.743 §125; 1973 c.405 §1; 1983 c.740 §32; 1987 c.907 §4; 1991 c.837 §9; 1993 c.252 §5; 1993 c.680 §20; 2005 c.706 §10; 2009 c.16 §3; 2009 c.610 §6; 2013 c.24 §11]

...

[Annotations](#) [Related](#)

Notes of Decisions

Buying or selling stolen property is an essential element of theft in the first degree under this section. State v. Dechand, 13 Or App 530, 511 P2d 430 (1973)

This section authorizes aggregation only if component acts are part of same transaction as that word has been previously defined by Oregon Supreme Court. State v. Barnes, 14 Or App 23, 511 P2d 1235 (1973); State v. Pena, 15 Or App 582, 516 P2d 761 (1973)

An indictment charging the defendant with the crime of theft which was framed in terms of this statute and ORS [164.015 \(Theft described\)](#) adequately provided notice as required by due process. State v. Gray, 23 Or App 464, 543 P2d 316 (1975)

Since state may not reach back in time to criminal conduct occurring beyond statute of limitations to construct charge of first degree theft, conviction under this section was improper where evidence showed that only one payment of \$50 was made to defendant after November 7, 1974 and less than \$200 was obtained by defendant during three years prior to indictment. State v. Scott, 48 Or App 623, 617 P2d 681 (1980)

Evidence that defendant had access to firearms, was seen with them night of theft and sold one of them was sufficient for jury to find that essential elements of crime of this section had been proven beyond reasonable doubt. State v. Taylor, 54 Or App 428, 634 P2d 1381 (1981)

Revolver that could be made operable in three to four minutes at cost of \$6 was readily capable of use as a weapon within meaning of this section. State v. Gortmaker, 60 Or App 723, 655 P2d 575 (1982), affd on other grounds, 295 Or 505, 668 P2d 354 (1983)

Where defendant was experienced district attorney and had himself prosecuted policeman for misappropriation of confiscated guns and where it was undisputed that firearm was property of Marion County and that destruction order did not authorize defendant to give gun to private individual, rational jury could infer that defendant intended to appropriate to third person property he knew was not his to give away. State v. Gortmaker, 60 Or App 723, 655 P2d 575 (1982), affd on other grounds, 295 Or 505, 668 P2d 354 (1983)

Theft by taking, ORS [164.015 \(Theft described\)](#), did not merge for sentencing purposes with theft by receiving, committed by selling stolen item, because there were two criminal objectives and two separate victims. Smith v. State of Oregon, 78 Or App 485, 717 P2d 240 (1986)

Value of property sold is irrelevant when charge is selling stolen property. Gill v. Cupp, 78 Or App 505, 717 P2d 211 (1986)

Element of concealment in ORS [164.095 \(Theft by receiving\)](#) is incorporated in this section through ORS [164.015 \(Theft described\)](#) (5) and ORS [164.095 \(Theft by receiving\)](#); concealment can be continuing act and, therefore, crime of theft by receiving can be continuing crime. State v. Knutson, 81 Or App 353, 725 P2d 407 (1986)

Where defendant appealed conviction for theft by receiving committed by selling, claiming fatal variance between indictment and proof because sale was not consummated, crime was nonetheless sufficiently described in indictment and defendant was not misled nor prejudiced in preparation of his defense. State v. Swanson, 90 Or App 543, 753 P2d 431 (1988)

That firearm was readily capable of use as weapon may be established by evidence other than test firing of weapon. State v. Bennett, 79 Or App 267, 719 P2d 38 (1986), Sup Ct review denied; State v. Wise, 150 Or App 449, 946 P2d 363 (1997)

Culpable mental state required by definition of theft does not extend to other elements constituting offense of theft in first degree. State v. Jones, 223 Or App 611, 196 P3d 97 (2008), Sup Ct review denied

Crime of unlawful entry into motor vehicle is not lesser included offense of attempted theft in the first degree. State v. Medley, 239 Or App 25, 243 P3d 147 (2010)

§§ [164.005 \(Definitions\)](#) to [164.135 \(Unauthorized use of a vehicle\)](#)

Law Review Citations

51 OLR 432, 525-536 (1972); 10 WLJ 156 (1974)

Chapter 164

Law Review Citations

Related Statutes³

- [131.125](#) 
[Time limitations](#)
- [131.602](#) 
[Prohibited conduct for purposes of instrumentalities of crime](#)
- [137.138](#)
[Forfeiture of weapons and revocation of hunting license for certain convictions](#)
- [137.717](#)
[Presumptive sentences for certain property offenders](#)
- [161.625](#)
[Fines for felonies](#)
- [163.095](#)
[Aggravated murder defined](#)
- [164.057](#)
[Aggravated theft in the first degree](#)
- [164.063](#)
[Disproportionate impact](#)
- [164.085](#)
[Theft by deception](#)
- [164.365](#)
[Criminal mischief in the first degree](#)
- [164.887](#)
[Interference with agricultural operations](#)
- [166.715](#)
[Definitions for ORS 166.715 to 166.735](#)
- [167.385](#)
[Unauthorized use of a livestock animal](#)
- [181A.340](#)
[Commissioning of humane special agents](#)
- [226.990](#)
[Penalties](#)
- [426.701](#)
[Commitment of extremely dangerous person with mental illness](#)
- [443.004](#)
[Criminal records check required for employees and volunteers providing direct care](#)
- [609.994](#)
[Penalties for ORS 609.510 to 609.520](#)
- [671.610](#)
[Grounds for sanctions against licensee](#)

Grabzt

- [809.411](#)
[Suspension for conviction of crime](#)

¹ Legislative Counsel Committee, *CHAPTER 164—Offenses Against Property*, https://www.oregonlegislature.gov/bills_laws/ors/ors164-.html (2015) (last accessed Jul. 16, 2016).

² Legislative Counsel Committee, *Annotations to the Oregon Revised Statutes, Cumulative Supplement - 2015, Chapter 164*, https://www.oregonlegislature.gov/bills_laws/ors/ano164.html (2015) (last accessed Jul. 16, 2016).

³ OregonLaws.org assembles these lists by analyzing references between Sections. Each listed item refers back to the current Section in its own text. The result reveals relationships in the code that may not have otherwise been apparent.

[Feedback](#) · [Press](#) · [Blog](#) · [About](#)

Compiled by [Robb Shecter](#), robb@oregonlaws.org

www.oregonlaws.org

2

Grabzt